McCANN, SCHAIBLE & WALL, LLC
ROBERT E. McCANN, I.D. #65735
TODD B. JACOBS, ID# 206309
SUITE 1110, TWO PENN CENTER PLAZA
15th ST. & JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19102
(215) 569-8488

MAJOR CASE
12 JURORS REQUESTED

Filed and Attested by
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... 2013 ... am

ATTORNEYS FOR PLAINTIFF

MARIA REYES 3423 N. 17th Street Philadelphia, PA 19140 Plaintiff v. OTIS ELEVATOR COMPANY 30 Twosome Dr., Suite 4 Moorestown, NJ 08057 and DAYMARK REALTY ADVISORS, INC. 1818 Market Street, Suite 1120 Philadelphia, PA 19103 and NNN 1818 Market Street, LLC 1818 Market Street, Suite 1120 Philadelphia, PA 19103 Defendants	COURT OF COMMON PLEAS PHILADELPHIA COUNTY TERM, 2013 NO.:

CIVIL ACTION COMPLAINT -2S

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
1101 MARKET STREET, 11TH FLOOR
PHILADELPHIA, PA 19107
TELEPHONE: (215) 238-6300

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrito sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SINO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICO, VAYA EN PERSONA O LLAME POR TELEPHONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACIÓN DE LICENCIADOS DE FILADELFIA
SERVICIO DE REFERENCIA E INFORMACIÓN LEGAL
1101 MARKET STREET, 11TH FLOOR
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Case ID: 130402865

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MAJOR CASE
12 JURORS REQUESTED

ATTORNEYS FOR PLAINTIFF

MARIA REYES
3423 N. 17th Street
Philadelphia, PA 19140
Plaintiff

v.

OTIS ELEVATOR COMPANY
30 Twosome Dr. Suite 4
Moorestown, NJ 08057
and
DAYMARK REALTY ADVISORS, INC.
1818 Market Street, Suite 1120
Philadelphia, PA 19103
and
NNN 1818 Market Street, LLC
1818 Market Street, Suite 1120
Philadelphia, PA 19103
Defendants

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

TERM, 2013

NO.:

CIVIL ACTION COMPLAINT -2S

1. Plaintiff, MARIA REYES, is an adult individual and resident of the Commonwealth of Pennsylvania, residing therein at the above referenced address.

2. Defendant, OTIS ELEVATOR COMPANY is a corporation and/or similar entity authorized to conduct business in Philadelphia, Pennsylvania, and at all times relevant hereto was responsible for elevator maintenance, inspection, repairs and other necessary services at 1818 Market Street, Philadelphia, Pennsylvania 19103.

3. Defendant, DAYMARK REALTY ADVISORS, INC., is a corporation and/or similar entity authorized to conduct business in Philadelphia, Pennsylvania, which at all material times, owned, managed, maintained, possessed and controlled 1818 Market Street, Philadelphia, Pennsylvania 19103.

4. Defendant, NNN 1818 Market Street, LLC, is a corporation and/or similar entity authorized to conduct business in Philadelphia, Pennsylvania, which at all material times, owned, managed, maintained, possessed and controlled 1818 Market Street, Philadelphia, Pennsylvania 19103.

5. At all times relevant hereto, all Defendants were acting individually and/or by and through their duly authorized actual and/or apparent agents, acting within the course and scope of their actual and/or apparent agency and employment.

6. On March 13, 2012 at about 8:15 am, Plaintiff, MARIA REYES, an employee at a law firm tenant at 1818 Market Street, Philadelphia, Pennsylvania 19103, boarded the number sixteen (16) elevator on the 35th Floor and intended upon riding the elevator to the lobby.

7. After boarding elevator #16, Plaintiff pressed the "Lobby Button" and the elevator doors closed. While standing on the elevator, it began to shake and dropped an unknown distance before stopping between the 35th and 34th floors of 1818 Market Street, Philadelphia, Pennsylvania 19103.

8. As a result of the above, Plaintiff, Maria Reyes, violently fell onto the elevator floor, causing her to sustain serious and permanent injuries more fully described below.

9. All Defendants were responsible for the maintenance, service and/or repair of the elevator at issue and knew or had reason to know that the elevator was malfunctioning and/or defective and not operating safely, creating a dangerous and defective condition for elevator riders such as the Plaintiff.

10. Despite notice and the opportunity to investigate the dangerous and defective condition of elevator #16 and correct it, none of the Defendants took any steps to do so.

11. Defendants breached their duty to keep the subject premises free from an unsafe condition within a reasonable time from receipt of actual and/or constructive notice of the unsafe condition.

12. Before the incident on March 13, 2012, Defendants knew and/or should have known that elevator #16 was not functioning properly and posed a substantial risk of harm to users like Plaintiff.

13. At all times relevant hereto, plaintiff, MARIA REYES, acted in a careful, cautious, reasonable and prudent manner and was free from any comparative negligence.

14. At all times relevant hereto, plaintiff, MARIA REYES, did not in any manner assume the risk of injury and/or accident.

15. The aforementioned accident and resulting injuries and/or damages were due in no part whatsoever to any act or failure on the part of plaintiff, MARIA REYES.

16. The aforementioned incident, and the resulting injuries and/or damages sustained by plaintiff, directly and proximately resulted from the negligence and carelessness of defendants, which conduct consisted of:

a. Failing to properly install, service and maintain, and/or timely and properly arrange for service and maintenance of said elevator in a manner safe for those lawfully utilizing said elevator;

b. Allowing said elevator to operate/continue to operate in a dangerous fashion while knowing or having reason to know of same;

c. Failing to warn those lawfully entering upon said elevator of dangerous conditions which Defendants knew or should have known of in time to have remedied same;

d. Failing to timely and properly inspect and/or arrange for inspection of said elevator for defects or dangerous conditions which would create an unreasonable risk of injuries to those lawfully entering upon it;

e. Failing to timely and properly make repairs and perform necessary adjustment and maintenance and/or arrange for same;

f. Creating said defective and dangerous conditions;

g. Failing to remedy or remove said conditions, obstructions, irregularities and/or defects and/or failing to arrange for said remedial/corrective work;

h. Failing to properly hire, train, supervise, and instruct its agents, apparent agents, workmen and/or employees;

i. Failing to timely and properly engage the services of appropriate elevator service/maintenance companies to address problems with said elevator;

j. Failing to timely and properly monitor elevator service and maintenance companies providing service to said elevator on or before the date of said accident;

k. Doing all of the above, where the dangerous conditions created a reasonably foreseeable risk of the kinds of injuries incurred;

l. Doing all of the above, where Defendants had actual notice or could reasonably be charged with notice under the circumstances of said dangerous conditions at a sufficient time prior to the accident, whereby it could have taken measures to protect against said dangerous conditions;

m. Failing to obey pertinent statutes, ordinances, and regulations;

n. Being otherwise careless and negligent under the circumstances and as discovery may disclose.

17. By reason of all the foregoing, plaintiff, MARIA REYES, suffered severe and potentially permanent injuries to her knees and lower back, including lumbar disc injuries at L4-5 and L5-S1 with radiculopathy, necessitating surgical intervention and hardware placement, together with various other injuries, the exact extent of which are unknown at this time, but which may be and probably are of a permanent nature with disabilities and loss of function.

18. As a direct result of the negligence and carelessness of the Defendants, Plaintiff, MARIA REYES, has in the past suffered and probably will in the future suffer great physical pain and anguish; she has suffered a loss of the enjoyment of her usual and daily activities, and

has been in the past and may in the future be hindered from engaging in her usual and daily duties, pleasures and activities.

19. As a direct and proximate result of the negligence and carelessness of the defendants, Plaintiff has in the past, and may in the future, be required to expend various and diverse sums of money in an effort to cure herself of the aforementioned ills.

20. As a direct and proximate result of the negligence and carelessness of the defendants, Plaintiff has in the past, and may in the future, suffer an inability to perform her usual and daily duties, labors and avocations and has suffered wage loss.

WHEREFORE, plaintiff demands judgment against all defendants, individually, jointly and/or severally, in an amount exceeding the arbitration limits.

McCANN, SCHAIBLE & WALL, LLC

Dated: April 19, 2013

BY: /s/
ROBERT E. McCANN
TODD B. JACOBS
Counsel for Plaintiff

VERIFICATION

I, MARIA REYES, plaintiff in connection with the above-captioned matter, verifies that she is authorized to take this Verification and that the statements made in the Civil Action Complaint are true and correct to the best of her knowledge, information and belief; and that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 4/11/13

MARIA REYES